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4 BILL NO. S-74-11-56

5 SPECIAL ORDINANCE NO. S- 200-74

6 AN ORDINANCE approving an Agreement with
7 MEISTER-GRABER for Sewer Extension

8 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
9 FORT WAYNE, INDIANA:

10 SECTION 1. The contract dated November 12, 1974 between
11 the City of Fort Wayne, by and through its Mayor and the Board of Public
12 Works and MEISTER-GRABER for the construction of a sanitary sewer as
13 follows:

14 Main Sewer

15 Beginning at a proposed manhole set on the existing 21-inch St.
16 Joe Interceptor at its intersection with Dupont Road; thence,
17 East along the North right of way of Dupont Road to Oak Tree
18 Road

19 Lateral No. 1

20 Beginning at a proposed manhole at Dupont Road and Oak Tree
21 Road; thence, Northeasterly along Oak Tree Road to proposed
22 Manhole No. 9

23 Lateral No. 2

24 Beginning at a proposed manhole at the intersection of Oak Tree
25 Road and Oak Branch Court; thence, East on Oak Branch Court
26 to proposed Manhole No. 10 and West to proposed Manhole No. 12

27 Lateral No. 3

28 Beginning at a proposed Manhole No. 6 on Oak Tree Road;
29 thence, South along the common property line of Lots No. 20 and
30 21 to the South line of Woodmont, Section I; thence, East termin-
31 ating at proposed Manhole No. 17.

32 the total cost to be paid by the developer, all as more particularly set forth in
33 said Contract, which is on file in the Office of the Board of Public Works, and
34 is by reference incorporated herein, made a part hereof and is hereby in all
35 things ratified, confirmed and approved.

36 SECTION 2. This Ordinance shall be in full force and effect from
37 and after its passage and approval by the Mayor.

38 
39 Councilman

40 APPROVED AS TO FORM
41 AND LEGALITY,

42 
43 CITY ATTORNEY

Read the first time in full and on motion by Burns, seconded by HINGA, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197____, at _____ o'clock P.M., E.S.T.

Date: 11-26-74

Charles W. Witterman

CITY CLERK

Read the third time in full and on motion by Burns, seconded by HINGA, and duly adopted, placed on its passage.

Passed (LOST) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	to-wit:
BURNS	<u>✓</u>				
HINGA	<u>✓</u>				
KRAUS	<u>✓</u>				
MOSES	<u>✓</u>				
NUCKOLS	<u>✓</u>				
SCHMIDT, D.	<u>✓</u>				
SCHMIDT, V.	<u>✓</u>				
STIER	<u>✓</u>				
TALARICO	<u>✓</u>				

DATE: 11/10/74

Charles W. Witterman

CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. 8-200-74 on the 10th day of December, 1974.

ATTEST: (SEAL)

Charles W. Witterman
CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th day of December, 1974, at the hour of 11:00 o'clock A.M., E.S.T.

Charles W. Witterman
CITY CLERK

Approved and signed by me this 11th day of December, 1974, at the hour of 3:00 o'clock P.M., E.S.T.

Don F. Huber
MAYOR

Bill No. S-74-11-56

REPORT OF THE COMMITTEE ON CITY UTILITIES

We, your Committee on City Utilities to whom was referred an Ordinance
approving an Agreement with MEISTER-GRABER for Sewer Extension

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance as PASS.

Paul M. Burns - Chairman

James S. Stier - Vice-Chairman

Vivian G. Schmidt

Donald J. Schmidt

Eugene Kraus, Jr.

DATE 12-10-74 CONCURRED

CHARLES W. WESTERMAN, CHAIRMAN

61-192-15
11/12/74

A G R E E M E N T

F O R

S E W E R E X T E N S I O N

THIS AGREEMENT, made in triplicate this 12th day of November, 1974, by and between MEISTER-GRABER, hereinafter referred to as "Developer", and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, hereinafter referred to as "City", W I T N E S S E T H:

WHEREAS, the Developer desires to construct a sanitary sewer described as follows:

Main Sewer

Beginning at a proposed manhole set on the existing 21-inch St. Joe Interceptor at its intersection with Dupont Road; thence, East along the North right of way of Dupont Road to Oak Tree Road.

Lateral No. 1

Beginning at a proposed manhole at Dupont Road and Oak Tree Road; thence, North-easterly along Oak Tree Road to proposed Manhole No. 9.

Lateral No. 2

Beginning at a proposed manhole at the intersection of Oak Tree Road and Oak Branch Court; thence, East on Oak Branch Court to proposed Manhole No. 10 and West to proposed Manhole No. 12.

Lateral No. 3

Beginning at a proposed Manhole No. 6 on Oak Tree Road; thence, South along the common property line of Lots No. 20 and 21 to the South line of Woodmont, Section I; thence, East terminating at proposed Manhole No. 17.

All sewers consist of $2,615 \pm L.F.$ of 10-inch A.C.P. and $1,710 \pm L.F.$ of 8-inch V.C.P.

in accordance with plans, specifications and profiles heretofore submitted to the City and now on file in the office of the Chief W.P.C. Engineer of the City Utilities of the City, and known as WOODMONT, SECTION I, which plans, specifications and profiles are by reference incorporated herein and made a part hereof, which sewer will serve not only land in which the Developer has an interest, but also adjoining land areas.

WHEREAS, the cost of construction of said sewer is represented to be \$51,000.00.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER

The Developer shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by the City, under private contract to be let within sixty (60) days after requisite City approval. All work and materials shall be subject to inspection by City and the right of City to halt construction if there shall be noncompliance therewith. Said sewer shall not be deemed permanently connected into the sewer system of City until final acceptance by City. Upon completion, said sewer shall become the property of City and City shall accept sewage therefrom, subject to such sewage service charges as may now or hereafter be

regularly established by City, and all further maintenance thereafter shall be borne by City.

2. COST OF CONSTRUCTION

The Developer agrees to pay the entire cost and expense of construction of said sewer, in cash, including City engineering and inspection fees, and to hold the City harmless from any liability for claims connected therewith.

3. AREA OF DEVELOPER

Said sewer, when accepted by the City will serve the following described real estate:

Part of the Southeast Quarter of Section 32, Township 32 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to-wit:

Beginning at the Northwest corner of Foxwood 1st Addition, as platted in the Allen County Recorder's Office, in Plat Book 33, Pages 24-26; thence, East along the North line of said Addition, 510.0 feet; thence, Northerly, by a deflection angle of 94°-30' left a distance of 450.0 feet; thence, Southwesterly by a deflection angle of 103°-00' left, a distance of 130.0 feet; thence, Northwesterly by a deflection angle of 86°-17' right, a distance of 248.0 feet; thence, Northeasterly by a deflection angle of 90°-44' right, a distance of 15.2 feet; thence, Northerly, by a deflection angle of 80°-22' left, a distance of 279.3 feet to the North line of the South half of said Southeast Quarter; thence, Westerly, by a deflection angle of 80°-38' left, on and along said North line, 920.0 feet; thence, South by a deflection angle of 88°-20' left a distance of 1226.5 feet to the South line of said Section 32; thence, East by a deflection angle of 90°-11' left on and along said South line, being also the centerline of DuPont Road, 370.0 feet; thence, North by a deflection angle of 89°-50' left a distance of 330.0 feet; thence, East by a deflection angle of 89°-50' right and parallel to said South line, 330.0 feet to the point of beginning, containing 25.232 acres of land, subject to DuPont Road right of way.

As the Developer will pay for the cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this Agreement against the above described real estate for the construction of said sewer by the present or future owners of said real estate except only as to such standard tap-in, inspection fees and monthly sewage treatment charges as are customarily charged by the City for connections to City sewer mains and treatment of sewage therefrom.

4. CHARGE AGAINST AREA

An area connection charge of \$475.00 per acre must be paid to City at the time of connection. This area connection charge is in addition to the local charge as set forth above, and represents the oversizing cost expended by City for sewer line in providing service to Woodmont, Section I; said sewer being the St. Joe Interceptor.

5. BOND

This contract is subject to Developer furnishing a satisfactory Performance and

Guaranty Bond for the value of the sewer which shall guarantee said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by the City.

6. LIMITATION ON USE

Said sewer shall be constructed for disposal of sanitary sewage only, and neither the parties hereto, their successors, or assigns, or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

7. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION

The Developer, for himself, his successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of any territory now or hereafter owned by him, as described in Article 3 herein, or hereafter served by said sewer or any extension thereof.

In further consideration and to induce City to execute and ratify this contract, said Developer, for himself, his successors and assigns, agrees by this contract to vest in City the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorized ordinance the said real estate described in Article 3 herein.

Developer further agrees that any deeds, contracts, or other instruments of conveyance made by the Developer, its successors or assigns transferring or conveying any interest or title in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article, which provisions shall run with the land and the acceptance of the delivery of any such instrument from the Developer, his successors and assigns by an grantee, vendee, or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

The Developer further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of City as hereinafter provided.

Any owner or owners of land which is now, or hereafter located outside the corporate limits of City who connect into the sewer constructed hereunder shall be deemed to thereby waive his, her, their or its right to remonstrate against or otherwise

object to, interfere with or oppose any pending or future annexation by City of such land or of the territory in which it is located or of the area served by said sewer.

8. GOVERNING STATUTE

It is the intention of the parties hereto to utilize and take advantage of and apply to this Agreement the provisions of Sections 16, 17 and 18 of Chapter 128 of the Acts of 1967 of the State of Indiana (Burns Indiana Statutes Anno., 1968 Supple., Sections 48-3963, 3964 and 3965), the provisions of which Sections shall govern with respect to any matters not specifically outlined herein.

9. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respect subject to approval by the Common Council of City, by duly adopted Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and year first above written.

DEVELOPER:

BY: Robert D. Zysk

CITY OF FORT WAYNE, INDIANA:

BY: Ivan A. Lebamoff, Mayor

BOARD OF PUBLIC WORKS

BY: Jerry D. Boswell, Chairman

BY: Carl E. O'Neal, Member

BY: Glen G. Conkling, Member

ATTEST:

James L. Smith
Clerk

Approved as to form and legality:

Philip R. Boller
Associate City Attorney

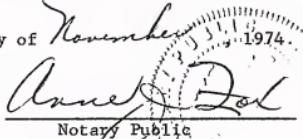
This Instrument prepared by Philip R. Boller, Chief Water Pollution Control Engineer.

STATE OF INDIANA, COUNTY OF ALLEN, SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Ivan A. Lebamoff, Mayor; Jerry D. Boswell, Chairman of the Board of Public Works; Carl E. O'Neal and Glen G. Conkling, Members of the Board of Public Works; Edna I. Smith, Clerk of the Board of Public Works; and John R. Fleck, Associate City Attorney, who acknowledged the execution of the foregoing agreement for sewer extension, as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal, this

12th day of November, 1974.


Anne D. Dol
Notary Public

My Commission Expires:

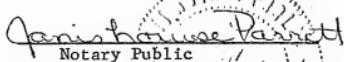
March 6, 1976

STATE OF INDIANA, COUNTY OF ALLEN, SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert L. Meister of Meister-Graber, who acknowledged the execution of the foregoing agreement for sewer extension, as and for his voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal, this

14th day of October, 1974.


Janithine Parrott
Notary Public

My Commission Expires:

June 25, 1977

AGREEMENT FOR AREA CONNECTION

FEE PAYMENTS

THIS AGREEMENT, made this 16th day of October, 1974, by and between MEISTER-GRABER, INC., hereinafter referred to as "Developer", and the BOARD OF PUBLIC WORKS of the City of Fort Wayne, Indiana, hereinafter referred to as "City",

W I T N E S S E T H:

WHEREAS, the Developer has platted Woodmont, Section I, consisting of 25.232 acres; and

WHEREAS, the development will be served by the St. Joe Interceptor, more particularly described as Resolution No. 272; and

WHEREAS, there is an area connection fee of \$475.00 per acre for all areas served by the St. Joe Interceptor.

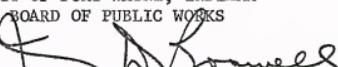
NOW, THEREFORE, it is agreed by the City and Developer that the area connection fee of \$11,985.20 be paid in the following manner:

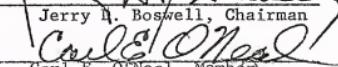
1. A payment of \$3,985.20 be made to the City prior to any construction of sewers to serve the development.
2. A payment of \$4,000 be made to the City six (6) months after construction begins.
3. A payment of \$4,000 be made to the City twelve (12) months after construction begins.
4. The terms and provisions of this Agreement shall be binding upon the Owner, its successors, nominees and assigns and shall run with the real estate and any subsequent sale or transfer of the real estate shall be subject hereto.

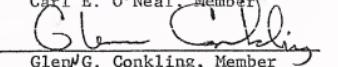
The above and foregoing Agreement and the terms thereof are accepted by both the City of Fort Wayne, Indiana, by and through its Board of Public Works and the Owner of the real estate.

IN WITNESS WHEREOF, the parties, and each of them, have affirmed their signatures and seals hereto:

CITY OF FORT WAYNE, INDIANA
BOARD OF PUBLIC WORKS

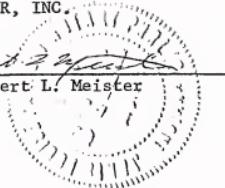
By: 
Jerry A. Boswell, Chairman

By: 
Carl E. O'Neal, Member

By: 
Glen W.G. Conkling, Member

DEVELOPER
MEISTER-GRABER, INC.

By: Robert L. Meister
Robert L. Meister



Attest:

Edna L. Smith
Clerk

STATE OF INDIANA, COUNTY OF ALLEN, SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Jerry D. Boswell, Chairman of the Board of Public Works; Carl E. O'Neal and Glen G. Conkling, Members of the Board of Public Works; and Edna Smith, Clerk of the Board of Public Works, who acknowledged the execution of the foregoing agreement for area connection fee payments, as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal, this 12th day of November, 1974.

Anne J. Fox
Notary Public

My Commission Expires:

March 6, 1976

STATE OF INDIANA, COUNTY OF ALLEN, SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert L. Meister of Meister-Graber, Inc. who acknowledged the execution of the foregoing agreement for area connection fee payments, as and for his voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal, this 16th day of October, 1974.

Janis L. Garrett
Notary Public

My Commission Expires:

June 25, 1977

DIGEST SHEET

8-74-11-56

TITLE OF ORDINANCE Special Ordinance

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE Covers Sewer Extension Agreement between Meister-Graber, Developer, and the City for construction of sewers to serve Woodmont Addition, Section I.

All costs shall be paid by the developer.

An area connection charge of \$475.00 per acre will be due City at time of connection. This represents oversizing costs expended by the City on the St. Joe Interceptor.

EFFECT OF PASSAGE Provision of sanitary sewers to residents outside City Limits.

Utility will benefit with acquisition of new customers.

EFFECT OF NON-PASSAGE Failure to provide adequate sanitary sewage treatment to territory subject to future annexation.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) None

ASSIGNED TO COMMITTEE

Public Schools City Utility